

## REMARKS

Applicants' undersigned attorneys would like to thank the Examiner for the courtesies extended during the telephonic interview conducted on June 27, 2007 regarding the Office Action mailed April 9, 2007.

During the telephonic interview, Applicants' attorneys and the Examiner first discussed, in general terms, Applicants' invention as set forth in detail in the present application. Applicants' attorneys then addressed (i) the rejection of claims 1-10, 13-15 and 18-20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ralston et al. U.S. Patent No. 6,389,454 (hereinafter "Ralston") in view of Dubois et al., *Source Localization Following Permanent Transperineal Prostate Interstitial Brachytherapy Using Magnetic Resonance Imaging*, INT. J. RADIATION ONCOLOGY BIOL. PHYS., Vol. 39, No. 5, 1037-1041 (1997) (hereinafter "Dubois"); and (ii) the rejection of claims 11-12 and 16-17 under 35 U.S.C. §103(a) as being unpatentable over Ralston in view of Dubois, and further in view of Pinard et al. U.S. Patent No. 5,940,834 (hereinafter "Pinard").

Specifically, Applicants' attorneys explained that Dubois does not teach an abbreviated MRI procedure designed for an asymptomatic individual scheduled with a provider capable of performing the abbreviated MRI procedure because the MRI sequence as taught by Dubois is performed on a post-operative patient. A post-operative patient inherently is a symptomatic patient — the operation was performed in response to some symptom. As a result, such a patient cannot be considered asymptomatic. In addition, the MRI sequence as taught by Dubois is performed to determine the efficacy of brachytherapy implants after prostate surgery, which further supports Applicants' argument that post-operative patients are not asymptomatic. As discussed in greater detail below, regarding the rejection of the claims, Applicants' attorneys

explained that Ralston, alone or in combination with Dubois and Pinard, do not teach or suggest scheduling an abbreviated MRI procedure for an asymptomatic individual.

Turning now to the substance of the Office Action, claims 1-20 are pending in the present application. Claims 1-20 stand rejected. No new matter has been introduced.

Claims 1-10, 13-15 and 18-20 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ralston in view of Dubois. Applicants respectfully traverse the foregoing claim rejections as set forth below.

As set forth in detail in the present application, Applicants' claimed invention is directed to embodiments of a system and method to allow a user to access a scheduling service provider and a screening MRI is arranged without a medical referral or any symptoms causing the user to seek the MRI. After a user profile is completed and accepted by the scheduling service provider, an appointment for an abbreviated MRI can be scheduled with a participating MRI facility or MRI screening center. Alternatively, low cost MRI screening units which can be conveniently located and available for the general public may be utilized. According to the presently claimed invention, the scheduling service provider can increase the percentage utilization of the existing MRI facilities and increase the availability of MRI scanning to the general public at a reduced cost.

Ralston describes a system and method for scheduling an appointment at a plurality of facilities providing a plurality of services. The system and method of Ralston receives a packet of client information (i.e., personal data, service data, client appointment preference data, and payment data); compares the service data to a set of service constraints in order to determine any limitations on the scheduling of the appointment; inputs the client information into a scheduling server; verifies the client information; generates a predetermined

number of appointment candidates based upon an analysis of the client information and the appointment scheduling limitations; communicates the appointment candidates to the client; generates an appointment based upon the client's selection of one of the appointment candidates; generating appointment information related to the appointment, the appointment information including the client information, the service constraints, an appointment date, an appointment time, the identity of the available facility, and the resources to be utilized; reports at least a portion of the appointment information to the client and all of the client information to the available facility; and confirms the appointment in the scheduling server. *See* Ralston at 2:53-3:35; 4:65-6:27.

The Examiner admits that Ralston does not teach scheduling an abbreviated MRI procedure designed for an asymptomatic individual. Final Office Action at ¶ 5. The Examiner relied on Dubois to then argue that it would have been obvious to one of ordinary skill in the art to modify Ralston to achieve the present claimed invention. Applicants respectfully submit that Dubois does not cure the deficiencies of Ralston because, as discussed above, Dubois does not teach scheduling an abbreviated MRI procedure designed for an asymptomatic individual. As discussed during the Interview, Dubois teaches that the MRI sequence disclosed therein is performed on post-operative patients, not asymptomatic individuals.

In contrast, the presently claimed invention is designed for truly asymptomatic individuals -- those individuals who do not exhibit, nor have any reason to believe that they would exhibit, any symptoms of disease. A post-operative patient is not an asymptomatic individual because the patient may still exhibit symptoms of disease even after surgery and clearly would have reason to believe that they may still be symptomatic. The Examiner nonetheless contends that a post-operative patient is an asymptomatic individual because surgery

potentially eliminated the patient's diagnosed disease. This argument simply defies the plain teaching of Dubois which is based on treating symptomatic patients. Moreover, upon careful examination of the reference, it is clear that the MRI sequence taught by Dubois is performed to evaluate the efficacy of brachytherapy implants after prostate surgery. Thus, it necessarily follows that a post-operative patient, who is still being evaluated to determine if an implant has been correctly implanted and is functioning properly, is not asymptomatic and has obvious reason to believe that they may still exhibit symptoms of disease. In addition, Applicants' specification teaches an abbreviated MRI procedure that can be performed in approximately three to five minutes (*see* ¶ [0014]) while the MRI sequence taught by Dubois may take fifteen minutes to complete (*see* Dubois at 1038). Thus, Applicants submit that one of ordinary skill in the art would not look to Dubois to find a teaching or suggestion to modify Ralston to yield the presently claimed invention.

Therefore, it is respectfully submitted that independent claims 1, 13 and 20 are patentable over the cited references. Notice to this effect is earnestly requested. It is further submitted that dependent claims 2-10, 14-15 and 18-19 are also allowable by reason of their various dependencies from independent claims 1, 13 and 20 as well as for the additional features and structure recited therein. Notice to this effect is also earnestly requested.

Claims 11-12 and 16-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ralston in view of Dubois, and further in view of Pinard. Applicants respectfully traverse the foregoing claim rejections as set forth below.

It is respectfully submitted that dependent claims 11-12 and 16-17 are allowable by reason of their various dependencies from independent claims 1 and 13, as well as for the additional features recited therein. Notice to this effect is earnestly requested.

In addition, Pinard fails to cure the severe deficiencies of Ralston and Dubois. Pinard describes a system and method for web page generation which provides for automatic web page creation of an organizational directory for use in an Internet and Intranet environment. *See* Pinard at Abstract; 1:52-2:67; 4:29-5:10. Pinard does not teach or suggest scheduling an abbreviated MRI procedure designed for an asymptomatic individual. Accordingly, one of ordinary skill in the art would not look to Pinard to find a teaching or suggestion to modify Ralston and Dubois to yield the present claimed invention.

On the basis of the foregoing remarks, Applicants respectfully submit that this application is in condition for immediate allowance, and notice to this effect is respectfully requested. The Examiner is invited to contact Applicants' undersigned attorneys at the telephone number set forth below if it will advance the prosecution of this case.

The Commissioner is hereby authorized to charge Deposit Account No. 50-0540 in the amount of \$225 to cover the fee under 37 C.F.R. 1.17(a)(2) for a Petition for a Two-Month Extension of Time, which is submitted herewith. Please charge any fee deficiency or credit any overpayment to the undersigned attorneys' Deposit Account No. 50-0540.

Respectfully submitted,

Date: August 24, 2007

/Jonathan S. Caplan/  
Jonathan S. Caplan  
Reg. No. 38,094  
Leslie K. Nguyen  
Reg. No. 49,081  
KRAMER LEVIN NAFTALIS & FRANKEL LLP  
1177 Avenue of the Americas  
New York, New York 10036  
(212) 715-9100